

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:05-CR-00026-F-1

UNITED STATES OF AMERICA

v.

FRANK ESQUIVEL,

Defendant.

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ORDER

This matter is before the court on Frank Esquivel's Motion for Reconsideration [DE-152] of the court's April 13, 2016 Order. In support of his request, Esquivel has submitted letters of recommendation.

On April 13, 2016, the court denied Esquivel's motion under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment. *See* April 13, 2016 Order [DE-146]. The motion was denied for the following reason: "Based on defendant's post-sentencing conduct, which shows that he poses an ongoing risk to public safety." *Id.* at 1.

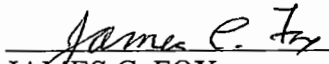
A review of Esquivel's post-sentencing conduct reveals the following: two counts of being in an unauthorized area, refusing to obey an order, insolence to staff, possessing intoxicants, failing to stand count, and possessing unauthorized items. Most significantly, on April 27, 2014, Esquivel was caught possessing a cell phone inside the prison. The court is cognizant of the serious risks created by an inmate's possession of a cell phone. *See United States v. Beason*, 523 F. App'x 932, 933 (4th Cir. 2013) ("The Bureau of Prisons (BOP) avers that cell phones pose significant security risks to prisons because inmates can use cell phones to arrange fraud schemes, plan assaults and coordinate escapes.")

In light of the foregoing, the court sees no meritorious reason to disturb its ruling.

Consequently, Esquivel's Motion for Reconsideration [DE-152] is DENIED.

SO ORDERED.

This, the 31st day of May, 2016.



JAMES C. FOX
Senior United States District Judge